
(2004) 01 AHC CK 0170
In the Allahabad High Court
Case No : Writ Petition No.5805 of 2001 (S/S)

Anil Kumar Chaturvedi

APPELLANT

Vs

Devi Patan Kshetriya Gramin Bank Ltd and Another

RESPONDENT

Date of Decision : 29-01-2004

Acts Referred:

Citation : (2004) 01 AHC CK 0170

Hon'ble Judges : Rakesh Sharma, J

Final Decision : Disposed Of

Judgement

Rakesh Sharma, J.

1. Heard Sri A.M. Tripathi learned counsel for the petitioner and Sri Virendra Mishra learned Standing counsel appearing for opposite parties No.1 and 2.
2. The grievance of the petitioner is that despite being a Senior Clerk/ Cashier of Devi Patan Kshetriya Gramin Bank Ltd, Phoolbila, Gonda, he has not been promoted on the next higher post of Junior Branch Manager Group hereinafter referred as JMGI with effect from 3.10.2000, the date when his juniors have been promoted on the said post. The petitioner has also requested for payment of salary for the above post with effect from the date of promotion of his juniors i.e.3.10.2000.
3. The petitioner has been working as Senior Clerk/Cashier since 1982. A final seniority list of Senior Clerk/Cashier of the Bank was published on 1.1.95 in which the petitioner has been placed at serial No.2. A formal regular selection for making promotion was held on 31.7.2001. The petitioner who was expecting his promotion on the next higher post JMGI was superseded. His juniors placed from Serial No.3 to 9 of the seniority list namely Sri Girdhari Lal, Surya Pal etc. were promoted on the higher post. According to the petitioner, his work, conduct and performances, has always remained satisfactory. He was qualified, fit and suitable for promotion on the next higher post.

4. Being aggrieved of the supersession, the present writ petition has been filed. A Counter affidavit has been filed by the Devi Patan Kshetriya Gramin Bank Ltd., Gonda to which rejoinder affidavit has been filed by the petitioner. It has been averred in the counter affidavit that the respondents Bank has violated the promotion policy, notified by the Central Government vide gazette notification dated 29.7.98. The promotion etc. are made in accordance with this policy as spelt out in the gazette notification dated 29.7.98. According to the third schedule of the promotion policy the promotion on the post of JMGI are to be made on the basis of seniority cum merit. It has been further indicated in the same policy that the selection shall be made on the basis of the performances in future and performance appraisal reports of preceding five years. The details regarding distribution of marks and process of promotion etc. has also been provided in the above said notification. The petitioner's case was duly considered by a high level Departmental Committee consisting of experts in the field. The Departmental Promotion Committee did not find the petitioner fit for promotion on the post of JMGI while his juniors were found suitable for the said promotion.

5. The petitioner has reiterated averments in the rejoinder affidavit. According to him, the appraisal of performance report was not drawn properly. Irrelevant material was considered which could not have formed the basis for supersession.

6. Two documents, one reprimand order i.e. 27.12.94 and the other a warning dated 1.5.96 has been placed on record alongwith short counter affidavit. As per the scheme envisaged in the aforesaid notification dated 29.7.98 service record preceding five years is to be considered and assessed for the purposes of promotion. These two documents relate to a period beyond five years and these entries cannot be read against the petitioner to form the material for his supersession.

7. I have considered the material on record and heard learned counsels for the parties. From above discussion it appears that the appraisal of performance report on the basis of service record has not been properly done and irrelevant material has been considered. The two documents which have been annexed along with the short counter affidavit relate to a period before 30.7.96. According to the scheme of the promotion the interview carries only 25 marks, the rest 75% marks are to be awarded for the performance of the person as exhibited through his service record. Petitioner is entitled for the first relief claimed through this writ petition. He is not entitled for the second relief as the petitioner cannot insist for continuing on a particular place of choice i.e. Paska, Gonda and a employee/officer of the Bank can be transferred from one place to another in his cadre.

8. In view of above, I direct the opposite parties to consider the petitioner's case for promotion excluding the material i.e. reprimand order, warning from consideration for the purpose of his promotion in accordance with relevant policy, rules applicable on the bank's employees. I direct the Bank to constitute a Departmental Promotion Committee and consider the matter afresh in the light

of above and if the petitioner is found fit and suitable on the basis of his seniority merit he may be promoted as JMGI in the Devi Patan Kshetriya Gramin Bank Ltd., Gonda. The service record as it stood on 31.7.2001 shall be considered for the purpose of promotion and only those entries and material shall be considered and taken into account which existed between 30.6.2001 to 31.7.2001.

9. The order has to be complied with, within a period three months from the date of production of the certified copy before opposite parties.

10. With the above observations, the writ petition is finally disposed.

(Ordered accordingly)